UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNITED STATES POSTAL SERVICE

and

Case 34-CA-092726

AMERICAN POSTAL WORKERS UNION, AFL-CIO

DECISION AND ORDER

Statement of the Case

On January 24, 2014, United States Postal Service (the Respondent), American Postal Workers Union, AFL-CIO (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act, as amended, and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.¹

Members Hirozawa

¹ Members Hirozawa and Schiffer note that the remedy to which the parties have agreed is not fully consistent with previous broad orders that the Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and refusing to provide relevant information. See, e.g., *United States Postal Service*, 28-CA-17383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003); and *United States Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007). These broad orders, as enforced by the United States Courts of Appeals, remain in effect. However, because all parties have agreed to the terms of this Formal Settlement Stipulation, they have determined that approval of the parties' settlement will effectuate the purposes of the Act. The Board's approval of this stipulation does not modify these orders in any respect.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following:

Findings of Fact

1. The Respondent's business

The Respondent provides postal services for the United States and operates various facilities throughout the United States in the performance of that function, including its facilities in its Northeast Area and in Windsor, Connecticut (the Northeast facilities).

The Board has jurisdiction over the Respondent and these matters by virtue of Section 1209 of the Postal Reorganization Act, 39 U.S.C. §101, et seq.

2. The labor organization involved

American Postal Workers Union, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation and the entire record and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, Northeast Area and Windsor, Connecticut, its officers, agents, successors, and assigns shall:

Cease and desist from

- (a) Failing or refusing to bargain collectively and in good faith with the American Postal Workers Union, AFL-CIO (the Union) by failing to provide the Union with requested information relevant to the Union's ability to represent the employees at its Northeast Area facilities in the bargaining unit (the Unit), where the nature of such requested information relates to issues of Area concern and requires the information request to be processed by the Northeast Area Office.
- (b) Failing or refusing to bargain collectively and in good faith with the Union by failing and refusing to supply the Union with requested information in a timely manner that is relevant to the Union's ability to represent the employees in the Unit at its Northeast Area facilities, where the nature of such requested information relates to issues of Area concern and requires the information request to be processed by the Northeast Area Office.

- (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights under Section 7 of the National Labor Relations Act.
- 2. Take the following affirmative actions necessary to effectuate the policies of the Act:
- (a) Bargain collectively and in good faith with the Union, the exclusive collective-bargaining representative of the Unit at the Northeast Area facilities, with regard to requests for information where the nature of such requested information relates to issues of Area concern and requires the request to be processed by the Northeast Area Office.
- (b) Supply the Union with requested information that is necessary for, and relevant to, the Union's representation of the employees in the Unit at the Northeast Area facilities, where the nature of such requested information relates to issues of Area concern and requires the information request to be processed by the Northeast Area Office.
- (c) Supply the Union in a timely manner with requested information that is necessary for, and relevant to, the Union's representation of the employees in the Unit at the Northeast Area facilities, and, if the requested information does not exist, promptly inform them, where the nature of such requested information relates to issues of Area concern and requires the information request to be processed by the Northeast Area Office.
- (d) Supply the Union with lists of employees with active retreat rights pursuant to the July 25, 2012 Das Award.
- (e) Supply the Union with information regarding grievances or potential grievances concerning the proposed excessing of Maintenance Craft Unit employees, including authorized maintenance staffing packages; MMO 074-00 authorization page; current miscellaneous equipment inventory and major mail processing equipment inventory, including worksheets; Sections 2A, 2B and 2C of the EWHEP; current authorized maintenance complement; PM master inventory PM list; and all forms indicating the Building Equipment Inventory, such as the PS Forms 4896-A, 4894-S, 4895 and 4896.
- (f) Within 14 days of service by the Region, post at the Northeast Area facilities copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by Region 1, Sub-Region 34, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

(g) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Union attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., April 30, 2014.

(SEAL)	NATIONAL LABOR RELATIONS BOARD	
	Nancy Schiffer,	Member
	Harry I. Johnson, III,	Member
	Kent Y. Hirozawa,	Member

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union
Bargain collectively through a representative chosen by employees;
Choose representatives to bargain with us on your behalf;
Act together with other employees for your benefit and protection;

Choose not to engage in any of these protected activities.

WE WILL NOT fail or refuse to bargain collectively and in good faith with the American Postal Workers Union, AFL-CIO (the Union) by failing to provide the Union, pursuant to its request, information relevant to the Union's ability to perform as the employees' bargaining agent at its Northeast Area facilities in the following unit (the Unit), where the nature of such requested information relates to issues of Area concern and requires the information request to be processed by the Northeast Area Office:

All employees in the bargaining unit for which each has been recognized and certified at the national level – Maintenance Employees, Motor Vehicle Employees, Postal Clerks, Special Delivery Messengers, Mail Equipment Shops Employees, Material Distribution Center Employees, and Operating Services and Facilities Services Employees (as described in Article 1, Section 1 of the National Agreement); excluding those classifications described in section 2 of the National Agreement.

WE WILL NOT fail or refuse to bargain collectively and in good faith with the Union by failing and refusing to supply the Union with requested information in a timely manner that is relevant to the Union's ability to represent the employees in the Unit at its Northeast Area facilities, where the nature of such requested information relates to issues of Area concern and requires the information request to be processed by the Northeast Area Office.

WE WILL NOT in any like or related manner interfere with, restrain or coerce employees in the exercise of their rights under Section 7 of the National Labor Relations Act.

WE WILL bargain collectively and in good faith with the Union, the exclusive collective-bargaining representative of the Unit at the Northeast Area facilities, with regard to requests for information where the nature of such requested information relates to issues of Area concern and requires the request to be processed by the Northeast Area Office.

WE WILL supply the Union with requested information that is necessary for, and relevant to, the Union's representation of the employees in the Unit at the Northeast Area facilities, where the nature of such requested information relates to issues of Area concern and requires the request to be processed by the Northeast Area Office.

WE WILL supply the Union in a timely manner with requested information that is necessary for, and relevant to, the Union's representation of the employees in the Unit at the Northeast Area facilities, and if the requested information does not exist, promptly inform them, where the nature of such requested information relates to issues of Area concern and requires the information request to be processed by the Northeast Area Office.

WE HAVE supplied the Union with lists of employees with active retreat rights pursuant to the July 25, 2012, Das Award.

WE HAVE supplied the Union with information regarding grievances or potential grievances concerning the proposed excessing of Maintenance Craft Unit employees, including authorized maintenance staffing packages; MMO 074-00 authorization page; current miscellaneous equipment inventory and major mail processing equipment inventory, including worksheets; Sections 2A, 2B and 2C of the EWHEP; current authorized maintenance complement; PM master inventory PM list; and all forms indicating the building Equipment Inventory, such as the PS Forms 4896-A, 4894-S, 4895 and 4896.

UNITED STATES POSTAL SERVICE (Employer)